



RULES

of the

Department of Examiners of Public Accounts

Ronald L. Jones, Chief Examiner

This publication is a compilation of rules pursuant to the Code of Alabama 1975, Section 41-5-17 that apply to examinations and related work performed by the Department of Examiners of Public Accounts.

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Authority of the Department

Publication of these Rules is required by the *Code of Alabama 1975*, Section 41-5-17. As a legislative agency, the Department is exempted by the *Code of Alabama 1975*, Section 41-22-3(1) from publication of its rules under the provisions of the Alabama Administrative Procedure Act.

The Department of Examiners of Public Accounts operates under authority of the *Code of Alabama 1975*, Title 41, Chapter 5. The department is both authorized and required by state law to examine the books, accounts and records of all state and county offices, officers, bureaus, boards, departments and agencies and to report to the Legislative Committee on Public Accounts on every expenditure or contract found to have been made in violation of law. The Department of Examiners of Public Accounts has the authority to examine the accounts of all persons or entities receiving or disbursing public funds.

By law, each state and county officer must keep his or her books, records and accounts and make reports as prescribed by the Chief Examiner. The Chief Examiner is authorized to levy a fine upon any officer who fails to comply.

The Chief Examiner of Public Accounts has the authority to issue subpoenas to compel the attendance of witnesses and the production of records in connection with examinations.

The Chief Examiner may, as a result of examinations, request and collect payment of amounts due the state, county or other governmental units from public officers, agents or employees.

Control and Direction of the Department

The Department is directed by the twelve-member Legislative Committee on Public Accounts. Of the twelve members, five are elected by and from members of the House of Representatives and five are elected by and from members of the Senate. The remaining two members are the President of the Senate (Lieutenant Governor), who serves as chairman, and the Speaker of the House of Representatives, who serves as vice-chairman. Every seven years, the Legislative Committee on Public Accounts appoints a Chief Examiner of Public Accounts to administer the operations of the Department of Examiners of Public Accounts. The Chief Examiner may serve successive terms.

How to Contact the Department

The department is located in the Gordon Persons Administrative Building at 50 North Ripley Street, Room 3201 in Montgomery, Alabama. The mailing address is Post Office Box 302251, Montgomery, AL 36130-2251. The Department may be contacted at (334) 242-9200 (voice), (334) 242-1775(FAX), or by e-mail at info@examiners.state.al.us. The Department's internet website is www.examiners.state.al.us.

Examinations

Type of Examinations Performed

The majority of work performed by the department consists of financial and legal compliance examinations of state and county governmental entities, including education institutions. Where applicable, examinations are conducted in accordance with generally accepted governmental auditing standards and audit requirements for federally subsidized programs. These examinations address reliability and accuracy of financial information and records, and compliance with state, local and federal legal requirements. Other work includes providing information about audited entities to the legislature and investigating noncompliance with state and federal law. Most examination procedures are performed on the local premises of the entity under examination. Examination results are disclosed in formal reports.

Beginning the Examination

A letter of introduction is sent to the entity under examination to announce the start of the examination and the type of examination that will be performed. A meeting is normally held between representatives of the entity and representatives of the department before each examination to discuss how the examination will be conducted, the type of work that will be done, and to introduce the examiner(s) to key personnel.

Examination Procedures

Internal Control Assessment - Each examination will include an assessment of the system of procedures used to control and insure the accuracy and completeness of financial records and the safety of assets. An assessment may be made of procedures used to control and insure the accuracy and completeness of other records which document that the entity operated within legal requirements. The effectiveness of the control procedures is considered when determining the nature, timing and extent of tests performed by the examiner. If programs exist that are subsidized by federal funds, the internal control assessment will include controls used to insure that federal requirements, both financial and non-financial, are met.

Testing - The examiner will test financial transactions and procedures according to generally accepted governmental auditing standards and the requirements of the *Code of Alabama 1975*. The tests are made to determine if information provided by the examined entity is accurate and complete and has been accumulated according to acceptable procedures.

The examiner will test compliance with state and local laws, rules or regulations and contractual agreements. These tests may address both financial and non-financial matters.

If programs receive federal funds, the examiner will test compliance with federal laws, regulations and contractual agreements. The nature and extent of these tests is governed by federal requirements and federally recommended audit procedures. Federal compliance testing may address both financial and non-financial matters.

The examiner will also test the extent of corrective action to remedy conditions that resulted in findings in prior reports.

Management Representations - For financial examinations, at or near the completion of the examination, the examiner will request the responsible official to certify in writing that all necessary information for the examination has been provided.

Legal Inquiry - The examiner will normally request the legal counsel of the examined entity to provide information, in writing, about current or potential litigation. This information is required at or near the completion of the examination.

Working Papers

Work performed during examinations will be documented, and the documentation will be retained as evidence of work done. The documents, known as working papers, may be prepared in either paper or electronic media. Working papers are, by law, available for review only by a court of competent jurisdiction and cannot otherwise be released either as copies or originals, in total or in part. (*Code of Alabama 1975, Section 41-5-21*).

Draft Report Contents, Preparation, and Processing

At the conclusion of the examination, the examiner will draft a report of the examination results. The results will be expressed as comments, findings and charges. Comments may be included to explain the operations of the examined organization. The term "findings" will normally be used to disclose major accounting discrepancies, weaknesses in internal controls and noncompliance with state and local laws and rules or regulations. A recommendation will be made in the report to correct each finding, unless the deficient condition that caused the finding has been corrected before completion of the examination, in which case, the report will normally contain a statement that the condition was corrected during the examination. If a finding from a prior examination has not been resolved, the report will continue the finding as an unresolved prior finding.

The term "charges" is used in the report to disclose amounts to be repaid arising from transactions made in error or not in compliance with state and local laws. The term "charges" as it is used in these Rules and in any audit or examination of the Department describes amounts due according to the professional auditing opinion of the Examiners of Public Accounts and is not used to describe criminal charges.

The report will include financial information and explanatory notes and, depending on the type of examination, the examiner's formal opinion on the reliability of the financial information, and other information necessary for adequate disclosure.

Examination reports will be prepared according to generally accepted governmental accounting standards and/or standards and requirements of the Department of Examiners of Public Accounts. If programs exist that are subsidized with federal funds, the report will contain additional information necessary to comply with federal disclosure requirements.

Exiting the Examination

After examination procedures have been completed and the draft report has received supervisory review and approval, an exit conference is normally held with representatives from the examined entity to present the results of the examination and to provide an opportunity for the examined entity to produce additional information that may affect the report.

The exit conference is considered an examination procedure preliminary to the final report. Consequently, information presented at the exit conference is not final and is, therefore, confidential, and the exit conference is open only to officials of and persons employed by the examined entity. Attendance at an exit conference by a quorum of a board or commission being examined is not a meeting subject to the provisions of the Alabama Open Meetings Act, *Code of Alabama 1975*, Section 36-25A-2(6)(b)(2). The exit conference will be documented and submitted as a working paper for supervisory review and approval. If no issues remain unresolved, the report will be processed for printing and release.

Settlement of Amounts Due

The Chief Examiner is required by law (*Code of Alabama 1975*, Section 41-5-22) to attempt to settle amounts found due during examinations. The following procedures for settlement have been adopted by the Department of Examiners of Public Accounts.

If amounts that are the result of transactions made in error or not in compliance with state and local laws come to the attention of the examiner during the examination, the examiner, with supervisory approval, will notify appropriate officials of the entity under examination of the amounts to be repaid and will allow the amounts to be voluntarily repaid to the proper accounts, funds or agencies. If voluntary repayment occurs before the end of the examination, the discrepancy will not be shown as due from persons named in the examination report; however, the report will present the facts surrounding the discrepancy along with a statement that amounts due were repaid during the examination. This procedure will not be followed if fraud or other criminal activity is suspected.

Payment of amounts due may be made only by check or money order payable to the proper agency, account or fund. The Department of Examiners of Public Accounts does not consider repayment to have been made until the department receives a copy of the check or money order and acceptable evidence of deposit.

If amounts due remain unpaid at the end of the examination, a formal letter requesting repayment (see APPENDIX I) will be delivered to the responsible person either by a department employee or by certified mail, return receipt requested. The letter of request will contain an explanation of why the department has decided the amount is due, a citation, if appropriate, of the legal criteria used by the department in their decision and copies, or references to, public documents used to determine amounts due.

In addition to requesting payment of amounts due, the letter will schedule a date for meeting with the Chief Examiner to show cause why the amount should not be repaid. The meeting will be scheduled at least 10 business days after a reasonable time for delivery of the letter. Attending the meeting will be the Chief Examiner, the responsible division director or assistant division director, the responsible audit manager and the examiner(s) who performed the examination. The meeting is informal and formal rules of evidence are not followed. The meeting is not recorded. The person responsible for payment of amounts due may be represented by an attorney. Any evidence, oral or written, may be presented, and witnesses are allowed. If payment is made at any time before the meeting, the meeting will be cancelled.

After consideration of information presented at the meeting, the Chief Examiner will decide whether to relieve the amounts due. The Chief Examiner's decision is expressed as a written order, which will be included in the report.

When non-payment of amounts due results in a formal letter of request for repayment, a "charge exhibit" will be placed in the examination report. The exhibit presents, describes, and explains the conditions surrounding the amounts due. Persons responsible for repayment of amounts due are named. If repayment of amounts due occurs before the report is released, the "charge exhibit" will show the repayment. If the Chief Examiner relieves the amounts due, the "charge exhibit" will show that the amount due was relieved.

If the responsible person fails to show sufficient cause why the amount due should not be repaid or to pay the amount due before the report is published, the "charge exhibit" will show that the amount due remains unpaid by the named responsible person or persons, and the report will be certified to the Attorney General for any amount due the state and to the district attorney with jurisdiction for any amount due a county or municipality. If the amount due is repaid before the report is published, the report will show that the amount due from named responsible person or persons has been repaid, and the report will not be certified to the Attorney General or to a district attorney.

The following schedule normally applies to meetings with the Chief Examiner to discuss amounts due.

Meeting with the Chief Examiner	Between 14 and 30 working days from the date of the letter of request.
Chief Examiner's Decision	Within 10 working days after the meeting.
Order of the Chief Examiner	Order prepared and a copy mailed within 3 working days after a decision by the Chief Examiner
Report Certified to Attorney General or District Attorney	Certification occurs at release of the examination report.

Petitions for Refund

Examinations of county governments may reveal that taxes or fees normally collected at the county level and forwarded to other entities were either overpaid or underpaid. Amounts overpaid will be corrected through "Petitions for Refund" (see APPENDIX II). The petitions will be provided to the responsible official for forwarding to the overpaid entity to recover the overpayment. The petitions make a formal request for return of overpaid amounts.

Amounts underpaid will be shown in the examination report as amounts due to be paid by the examined entity.

Investigations

Investigations must be authorized by the Chief Examiner and may include receiving sworn statements.

Discussion During Examinations or Investigations or While Litigation is in Progress

Personnel of the Department of Examiners of Public Accounts are not authorized to discuss and are directed not to discuss examinations or related investigations prior to final release of examination reports, except as needed to perform their work. Official determinations and conclusions of the Department of Examiners of Public Accounts relative to examinations are expressed only in examination reports released for publication. Department personnel are not authorized to discuss and are directed not to discuss litigation involving examined entities. Determinations and conclusions on issues under litigation are within the jurisdiction of courts and the department's role is limited to presentation of evidence within the judicial framework.

Attendance at Board, Commission Meetings

Personnel of the Department are not authorized and are directed not to give official opinions or to discuss issues in open meetings of a governmental body that is subject to examination. Official determinations and conclusions of the Department of Examiners of Public Accounts are expressed only in examination reports or in response to inquiries directed to the Chief Examiner of Public Accounts.

Attendance at Administrative Hearings

Personnel of the Department are not authorized and are directed not to testify at or attend administrative or personnel hearings of examined entities. Determinations and conclusions of the Department of Examiners of Public accounts are expressed only in examination reports or in response to inquiries directed to the Chief Examiner of Public Accounts. Testimony at hearings constitutes release of working paper information restricted by *Code of Alabama 1975*, Section 41-5-21.

Distribution and Availability of Final Reports

Examination reports are public documents and are available for viewing at no charge at the department's offices or on the department's Internet website. It is the department's policy to provide copies of reports electronically in portable document format (PDF) unless the requestor cannot access electronic documents. Copies can be obtained by request on compact disc (CD), through e-mail or by download from our Internet website.

Examination reports are frequently used as evidence in litigation involving public officials and employees. The department at times is requested to perform special examinations by the State Ethics Commission, the State Attorney General, grand juries, district attorneys and others. Officials use examination reports as guidelines to correct problem areas in their organizations. A copy of each examination report is certified to the circuit judge with jurisdiction and to the governor. The *Code of Alabama 1975*, Section 41-5-21 states that the circuit judge shall present the reports to the grand jury.

Examination reports become public information only after formal release by the Chief Examiner of Public Accounts. Until reports are released, their contents are subject to change upon discovery of additional facts. Consequently, reports are not final, and their contents remain confidential until released. Reports are normally mailed to the examined entities on Monday of each week. Reports are released as public documents on the following Friday at 9:00 AM at which time they are available for viewing and downloading from the department's Internet website.

Audits of Municipalities

State law does not require periodic examinations of municipalities by the Department of Examiners of Public Accounts. However, by law, municipalities and municipal water and sewer boards can request an audit by the Department of Examiners of Public Accounts. The municipalities or the water and sewer boards usually pay the cost of such audits. (*Code of Alabama 1975*, Sections 11-43-85, 11-43C-31, 11-43D-17, 11-44C-31, 11-44-139, 11-50-355). Also by law, the governor can request examinations of certain types of municipalities. The municipalities, upon approval of the governor, pay the cost of such examinations. (*Code of Alabama 1975*, Sections 11-44-50 and 11-44-95).

Audits of City Boards of Education

State law (*Code of Alabama 1975*, Section 16-13A-7) requires annual audits of city boards of education, which may be performed by either the Examiners of Public Accounts or by a private accounting firm. A city board of education may request an audit by the Examiners of Public Accounts if it deems such action to be in the best interest of the school system or if there is a change in the position of the city superintendent of education or chief school financial officer.

All audits of city boards of education must include legal compliance and program compliance auditing and state law requires that the legal compliance and program compliance audit work must adhere to standards established by the Examiners of Public Accounts. Reports of audits performed by either the Examiners of Public Accounts or by private accounting firms are public records and must include all adverse findings. Reports of audits of city boards of education must by law be provided to and can be requested from the State Superintendent of Education. Additionally, reports of such audits performed by the Examiners of Public Accounts can be requested from the Examiners of Public Accounts.

State law requires the Examiners of Public Accounts to audit any city school system that has experienced financial intervention by the State Superintendent of Education prior to June 1, 2006. City school systems that experience financial intervention after June 1, 2006 must be audited by the Examiners of Public Accounts for three years following an intervention.

Audits for the State Ethics Commission

The State Ethics Commission can request the Department of Examiners of Public Accounts to conduct an audit of any person or business when, in the opinion of the Ethics Commission, such an audit is necessary to determine whether there is a violation of Alabama's ethics law. Such audits are restricted to matters relevant to the suspected violation. (*Code of Alabama 1975*, Section 36-25-4(7)).

Reports to the Joint Legislative Sunset Committee

The *Code of Alabama 1975*, Section 41-20-9 directs the Department of Examiners of Public Accounts to furnish, upon request by the Sunset Committee, any relevant information, including the results of prior audits and reviews of any agency under review by the committee. The Sunset Committee is a joint committee of the Alabama Legislature tasked with reviewing the operations of state agencies.

The department conducts such examinations and inquiries as necessary to provide information requested by the committee. The results are presented to the committee as formal reports. The content and release of reports are under the control of the Sunset Committee. The reports are released as public documents on the day prior to the day an entity under review by the committee appears at a hearing before the committee. The reports can be viewed and downloaded from the department's Internet website.

Assistance to the Contract Review Permanent Legislative Oversight Committee

By law, the Department of Examiners of Public Accounts must furnish assistance and relevant information to the Contract Review Permanent Legislative Oversight Committee. During each month, the Department analyzes personal and professional service contracts between the state and private entities submitted to the committee for review and prepares a report of pertinent information about the contracts. The report is used as the agenda at the committee's monthly meeting. (*Code of Alabama 1975*, Section 29-2-41). The report is under the control and direction of the committee. The report for the most recent month is posted prior to each meeting on the Interim Committee section of the internet webpage of the Alabama Legislature <http://www.legislature.state.al>.

Audits of Publicly Owned Hospitals, Nursing Homes, and Other Publicly Owned Medical Institutions

Audits of publicly owned hospitals, nursing homes and other publicly owned medical institutions may be performed by private certified public accountants licensed by the Alabama Board of Public Accountancy. (*Code of Alabama 1975*, Section 22-21-4). Such audits must be made in accordance with standards established by the Chief Examiner of Public Accounts. The Chief Examiner has adopted standards found in two publications: *Auditing and Reporting Standards for Financial and Compliance Audits of Publicly Owned Hospitals*, which provides guidance for audits of public hospitals and similar entities, and *Auditing and Reporting Standards for Financial and Compliance Audits of Public Mental Health Centers*, which provides guidance for audits of mental health centers. Both publications are available on our internet website or directly from the Department upon request.

Audit Repository

Act Number 94-414, Acts of Alabama, requires the Department of Examiners of Public Accounts to establish a repository for audit reports of entities in Alabama that receive or disburse public funds. The department receives audit reports and makes copies available to the public upon request. Copies of the reports can be requested by telephone, FAX, or e-mail.

Report of Leases

Annually, at the beginning of the calendar year, the Department of Examiners of Public Accounts publishes a report containing detailed and summary information about real property leased by the State of Alabama from private entities as of the previous October 1. The report can be viewed and downloaded from our Internet website. A copy can be requested at (334) 242-9200 or by e-mail.

County Financial Statements

As required by the *Code of Alabama 1975*, Section 41-5-6(13), the Chief Examiner annually prepares a compilation of county financial statements. The compilation is furnished to each county commission chairman. The compilation includes receipts, disbursements, outstanding indebtedness and securities owned for each county. All statements are presented in a single report that provides information about each county, as well as summary schedules for all counties. The compilation of statements is normally available by January 31st and contains information about the fiscal year that ended on the previous September 30th. The information in the statements has not been audited but will be audited during the next regular scheduled examinations. The statements can be viewed and downloaded from our Internet website. A copy can also be requested by telephone, FAX, or e-mail.

Relationship Disclosure Forms

The *Code of Alabama 1975*, Section 41-16-82(a) & (b) requires that all persons who, for the purpose of direct financial gain, submit a proposal, bid, contract, or grant proposal that exceeds \$5,000 to the State of Alabama, must include a disclosure statement developed by the Attorney General and approved by the Legislative Council. Some exemptions are named in the law. A standard disclosure form was developed to accomplish this reporting. The *Code of Alabama 1975*, Section 41-16-85 requires a copy of the disclosure statement to be filed with the awarding entity and with the Department of Examiners of Public Accounts. If the disclosure statement pertains to a state contract, a copy must be submitted to the Contract Review Permanent Legislative Oversight Committee. Disclosure forms received by the Examiners of Public Accounts are retained for three years and are available from the Department by request.

APPENDIX I

EXAMPLE SETTLEMENT REQUEST LETTER

DATE

NAME OF RESPONSIBLE PERSON

ADDRESS

ADDRESS

Certified Mail

Return Receipt Requested

Dear (NAME OF RESPONSIBLE PERSON):

This letter is a formal request for settlement of amounts found due from you as a result of our examination of the records and transactions of the (NAME OF EXAMINED ENTITY) for the period (PERIOD EXAMINED).

STATE THE REASON(S) FOR THE AMOUNTS DUE.

State law (*Code of Alabama 1975*, Section 41-5-22) requires the Department of Examiners of Public Accounts to make this attempt for settlement. You may meet with the Chief Examiner of Public Accounts on (SCHEDULED DAY OF THE WEEK, MONTH, DAY, YEAR) in the Gordon Persons Administrative Building at 50 North Ripley Street, Room 3201 in Montgomery, Alabama to show cause why you should not pay the amounts found due from you. Payment of amounts due at any time before the meeting will cancel the meeting. If you do not pay the amounts due and the Chief Examiner does not relieve you of responsibility to pay the amounts due, we are required by law to forward the report containing information on the unpaid amounts to the (ATTORNEY GENERAL OR DISTRICT ATTORNEY, AS APPLICABLE).

To pay amounts due, please contact the Department of Examiners of Public Accounts for specific instructions.

Sincerely,

Ronald L. Jones
Chief Examiner

APPENDIX II

EXAMPLE PETITION FOR REFUND

DATE

ADDRESSEE

ADDRESS

ADDRESS

Dear ADDRESSEE:

An examination of my records for the PERIOD EXAMINED by the Department of Examiners of Public Accounts disclosed that I have overpaid the following items to you and am entitled to a refund from you for the amounts overpaid.

LIST THE ITEMS AND AMOUNTS

Sincerely,

NAME OF OFFICIAL

NAME OF OFFICE EXAMINED

Sworn and subscribed before me
DATE.

Notary Public

APPROVED

DATE

Examiner of Public Accounts

APPROVED

DATE

Audit Manager